

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

NORMAN CRITTENDEN

§

VS.

§

CIVIL ACTION NO. 1:11cv564

J. SOWELL, ET AL.

§

MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Norman Crittenden, an inmate at the Lewis Unit, proceeding *pro se*, brought the above-styled lawsuit.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed without prejudice as barred by 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes plaintiff's objections are without merit. As set forth in the Report, plaintiff is barred from proceeding with this action on an *in forma pauperis* basis pursuant to 28 U.S.C. § 1915(g). While plaintiff may disagree with the quality of medical care he has received, by his own admission the defendants have provided him with medical care including being referred to a cardiology specialist at the University of Texas Medical Branch, performing

reconstructive surgery on his knee, and issuing him medical knee braces. The factual allegations set forth in plaintiff's complaint, as well as his amended complaint, do not demonstrate that he was in "imminent danger of serious physical injury" at the time he filed the complaint. *See Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998).

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So **ORDERED** and **SIGNED** this **1** day of **June, 2012**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge